

ENVIRONMENTAL JUSTICE ADVISORY BOARD

Monday, April 29, 2002

Rachel Carson State Office Building

Harrisburg, PA

Meeting Called to Order:

The Environmental Justice Advisory Board was called to order at 8:30 a.m. by Alisa Harris, Director, Office of Environmental Advocate

Welcome and Opening Remarks -Secretary Hess

Secretary Hess gave background information on the Environmental Justice Work Group and explained that the Environmental Justice Advisory Board was formed to improve the way DEP reaches out to communities.

One of the recommendations of the work group report was how to educate the public when permits are received through the Department, and the ability to track those permits through the Department. This was a major resource tool that the work group recommended. We also hired a Director for the Office of Environmental Advocate and 3 Regional Environmental Advocates in each of our southern regional offices (Pittsburgh, Harrisburg and Philadelphia).

Secretary Hess feels one of the most important recommendation was the formation of this Advisory Board because they can advise the Department, on a continuing basis, on how to improve the way the Department does business, not only with the way the Department implements its permitting process, makes decisions, sets rules and policies, reaches out to communities and communicates with communities.

Secretary Hess explained that he has a personal interest in this group as the Secretary of the Department of Environmental Protection.

Introduction of Members:

Deborah Kilmartin, Kilmartin Environmental Consulting, Inc.

Pheralyn Dove, Dove Communications

Jerome Balter, Public Interest Law Center of Philadelphia

Wilder Bancroft, Allegheny County Health Department

Dr. Stephen Kauffman, Center for Social Work Education, Widener University

Edward Thomas

Eli Brill, Dechert, Price & Rhoads (served on EJWG)

Patrick O'Neill, City of Philadelphia

Truong Phuong, International Service Center

Gary Horton, Sons of Lake Erie

Alfred Ryan, PECO Energy

Members not in Attendance:

Calvin Little
Kendal Miller, Delaware Valley Regional Planning Commission
Alta Garcia Oppenheimer
Mr. Sis-Obed Torres Cordero, Council of Spanish Speaking Organizations
Ms. Kim Turner

Others in Attendance:

Michael Corbin, The Corbin Law Firm
Gene Counsel, Bureau of Waterways Engineering
Marjorie Hughes, Office of Air, Recycling and Radiation
Mark Freed, Assistant Counsel, SERO
Justina Wasicek, Office of Chief Counsel
Lawrence Holley, Program Development Manager, Land Recycling
Mike Young, Pa. Coal Association
Sue Wilson, Citizens Advisory Counsel
Harold Miller, Mining and Reclamation
Anne Miller, Environmental Chemist, OPPCA
Holly Cairns, Environmental Advocate Coordinator, SW Region
Alice Wright, Environmental Advocate Coordinator, SE Region
Marcus Kohl, Environmental Advocate Coordinator, SC Region
Lou Guerra, Jr., Policy Office.
Mike Terretti, Mineral Resources, Greensburg Dist. Mining Office
Mike Bedrin, Deputy Secretary, Office of Chief Counsel
Arthur Ray, Exelan Nuclear
Nina Huizinga, Office of Human Resources
Krish Ramamurthy, Bureau of Air Quality
John Shontz, Bureau of Air Quality
Bo Reiley, Office of Chief Counsel

History of the Environmental Justice Movement: Power Point Presentation by Michael Corbin

Presentations from the Internal Environmental Justice Work Group

Alice Wright - Southeast Regional Office: Leveling the Playing Field
(Pages 13-14 of the Environmental Justice Work Group Report)

Leveling the Playing Field means that DEP should devote the attention, energies and resources to the environmental health and safety of minority and low-income communities. The recommendations contained in this report that focus on DEP's permitting processes and environmental cleanup programs should be implemented in a manner that will overcome any past inequities, eliminate any current disproportionate environmental burdens within minority and low-income communities, and prevent future inequities. DEP should work with minority and low-income communities to maintain and preserve areas of their communities that do not currently contain degraded properties. Elevating specific populations to a position equal to that of other populations is the leveling that is recommended.

The Southeast Regional Office has been going out into communities, finding out ways to fit into the community. Leveling the playing field does not mean that DEP should take from non-minority communities.

John Kennedy, Southeast Regional Office - Improving the Condition of Environmentally Burdened Minority and Low-Income Communities (Pages 14-15 of the Environmental Justice Work Group)

Nina Huizinga, Bureau of Human Resources - Public Participation (Pages 19-22 of the Environmental Justice Work Group Report)

Results – six suggestions from the Work Group on Public Participation

1. Outreach
2. Information
3. Meetings
4. Summary
5. Documents
6. Conflict

Outreach What changes are we going to make:

- Meet early with the community;
- Create Fact Sheets about proposed activities that will be available to the community members in plain English and other languages
- Provide mobile offices in communities that have concerned questions;
- Provide communities with information regarding environmental issues before and after the permitting process;
- Investigate funding;
- Provide for technical assistance and environmental projects

Information

- Register advocacy group with DEP through Enotice;
- Public Notices – Need to advertise on radio, mail, church bulletins, public service announcements;

Alisa explained that Alice Wright and Holly Cairns are working on the issue of notifying the community and community leaders about what is happening in DEP.

There was a suggestion to include block captains in our outreach efforts. Block Captains are instrumental in keeping some communities informed.

One of the members said that DEP provides too much written word on regulations and there needs to be one-on-one meetings or smaller meetings.

One of the members said that some people can speak Spanish or English, but cannot write the language, they can only communicate orally. DEP should consider this issue.

Nina said there was survey in the Department of employees who spoke different languages and she said that the Southeast Regional Office was going to post this information on DEP's Website.

Meetings

- Schedule them within 30 days of the permit application submittal,
- Have meetings in various areas, schools, etc. and schedule these meeting in an area where people have various transportations.

Summaries

Develop plain language Summaries so residents can understand what is being proposed.

Documents

Expand times, locations and provide permit applications in color rather than black and white when applicable.

Conflicts

Consider ways to resolve conflicts during the permitting process. When you have permit applications, you don't want to have conflict. This will prevent or minimize litigation.

DEP should encourage the use of formal and informal, voluntary alternative dispute resolution (such as mediation or arbitration) after application submittal and prior to final permit decision. DEP should offer assistance to the parties in mediation, the facilitation of meetings or selection of neutral third-party mediator.

There are deadlines connected with permits. As stated in the report, DEP should use its authority to issue a draft permit decision prior to final decision.

Mark Freed, Assistant Counsel, SERO - Permitting (Pages 16-18 of the Environmental Justice Work Group Report)

The work group did not deal with all of the issues involving permitting and the hope is that this Advisory Board would become more involved in the specifics of DEP's Permitting process.

Provide meaningful public participation - People need to be able to receive the information, respond to the information and have the power to do something with the information. Mark Freed explained that there are certain areas that are going to fall outside of DEP's jurisdiction. We are considering our current authority as well as what additional authority is needed to change our processes and regulations.

Mark Freed discussed about some of the problems in identifying low-income minority communities. See Census Data of the Report.

Alisa said it very easy to take these census data sheets out of context.

Mark Freed explained Trigger Permits.

Dr. Kauffman - Prioritized the areas of concern for the Advisory Board:

- Policy component, new legislation and internal process
- Curriculum and training - within and outside the department
- Oversight of the first 2

Mark Freed, Assistant Counsel, SERO, said that Sue Wilson, Citizens Advisory Council constructed a draft report based on the original work group. It is a chart of that may require legislation and what can be done administratively.

Jerome Balter suggested that his Environmental Justice protocol be distributed to the members. Michael Corbin from Corbin Law Firm said he had a copy of the Protocol.

Deborah Kilmartin - suggested the Board set up a task force so that short term and long terms goals can be established.

Areas to be addressed:

1. Public Participation
2. OEA - Office of Environmental Advocate
3. Training
4. Environmentally Related Communities
5. Health
6. Cumulative Impact
7. Disparity

Pheralyn Dove asked the question how do we prioritize from the above list?

Alisa Harris suggested that the Board develop subcommittees so they can accomplish more until the next meeting in November

Patrick O'Neil- suggested a meeting for the 2nd week in June.

Ed Thomas - suggested quarterly meetings

Truong Phuong - suggested we give the Board 18 months to accomplish mission

Alisa Harris - suggested 6 months to produce a draft of a cumulative impact statement

Truong Phuong - suggested that we not reinvent the wheel.

Alisa Harris - suggests 2 or 3 different subcommittees, more people on the Board. Include people on the Board that have expertise in: mining issues, science, economic development, waste issues, low-income and technical issues.

There were four subcommittee established by the Board:

Cumulative/Disparity Subcommittee:

Jerome Balter, Wilder Bancroft, Truong Phuong, Deborah Kilmartin, Eli Brill

Public Participation Subcommittee

Patrick O'Neill, Dr. Stephen Kauffman, Pheralyn Dove, Kendall Miller, Gary Horton

Oversight Committee

Alfred Ryan, Edward Thomas

Environmentally Burdened Communities

Al Ryan, Deborah Kilmartin, Kendall Miller

Alisa offered the assistance of the internal work group to assist the Board members with the subcommittees:

Cumulative/Disparity

Mike Corbin
Justine Wasicek
Eugene Counsel
Krish Ramaurthy

Oversight

Lou Guerra
Alisa Harris

Public Participation

Alice Wright
Holly Cairns
Marcus Kohl

Environmental Burden

John Kennedy
Marge Hughes
Anne Miller

Next Step - June 24 Meeting (NOTE: The meeting was originally scheduled for June 26. After further consideration, the meeting has been rescheduled for June 24.)

- Action Plan
- Internal Policy

- Define and Develop Cumulative Impact Protocols
- Define & Develop Disparity Analysis
- Report Card/Annual Report

Summary

Short Term Goals of the Board

Public Participation

Break into 4 subcommittees

Additional members to the Board

Lou Guerra - Policy Office - Review of Draft By Laws and Create Interim By Laws for next Meeting.

Deborah Kilmartin - suggested 2/3 majority vote instead or simple majority

Patrick O'Neill - suggested that the Board go with 2/3 vote of those present

Pheralyn Dove - suggested a paper ballot

Justice Wasicek- explained that there may be some Sunshine Law issues involved with paper ballots

Pheralyn Dove - recommended 2/3 vote

Michael Corbin - suggested 2/3 of those present, 2/3 of the entire Board - change By Laws

Lou Guerra - suggested the Board appoint an interim chairperson and interim vice chairperson

SUGGESTED CHANGES OF THE BYLAWS

Article IV – Membership – last sentence add and industry.

Article IV – Membership – Section A, first sentence, delete the word approval and add the word notice

Article IV – Membership – Section C, delete the word shall and add the word should

Article V – Voting – add – Affirmative vote in two-thirds of those members present.

Article VIII – Election of Officers – change May to June

Article XII. Amendments – first sentence, delete the words present at that meeting

Lou Guerra – suggested at the next regular meeting in November, that the Board establish in the meeting dates for 2003.

All Board members agreed to changes of the By Laws

Interim Chair – Edward Thomas

Interim Vice Chair – Truong Phuong

The Board voted and it was accepted.

Meeting adjourned at 4:30 p.m.

Minutes taken by Lorraine Wagner